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Remarks

Claims 1-11 are pending in the application. All claims stand rejected by the Office Action dated June 26, 2006. Claim 1 is amended to clarify that "providing post dispatch instructions to a caller" is based on the pre-established determinant level so as to eliminate variability due to the different skills of the individual dispatchers.

Claims 1-11 are rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 4,237,344 to Moore ("*Moore*"), in view of U.S. Patent No. 6,968,375 to Brown ("*Brown*"). Reconsideration of all pending claims in view of the amendment to claim 1 and the following remarks is respectfully requested.

Rejection under § 103(a)

Applicant respectfully submits that the Examiner has not established a prima facie case of obviousness for claim 1 over *Moore* in view of *Brown*. The Examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. MPEP § 2141. "To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." MPEP § 2142.03 (citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)). Applicant submits that *Moore*, in view of *Brown*, does not teach all the elements of claim 1. Specifically, *Moore* combined with *Brown* does not teach pre-established determinant levels, post-dispatch instructions to a caller prior to the arrival of medical responders, or a systematic pre-scripted interrogation including a medium readable by a dispatcher.

Furthermore, "if an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious." *Id.* (citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)). Applicant thus submits that dependent claims 2-11 are also nonobvious, being dependent on claim 1.

Moore and Brown Do Not Teach Pre-Established Determinant Levels

As raised in response to a prior office action, *Moore* does not teach pre-established determinant levels, one of the elements of claim 1 of the present invention. Nor does *Moore*, in view of *Brown*, teach pre-established determinant levels.

Moore teaches that an informed decision may be made on a medical response through critical evaluation of several factors. *Moore* teaches that based on the patient's medical profile and the location of health care personnel on a given floor, an informed decision on the degree of medical response required and the appropriate responding personnel may be made. Column 3, lines 59-67. There is no determinant level or other code that is used to convey the urgency of the situation. Rather, the decision is highly dependent upon the knowledge, skill, and experience of the "health care coordinator" (or dispatcher, to use Examiner's characterization).

In contrast, claim 1 recites assigning one of a plurality of pre-established determinant levels. The determination and assignment of a determinant level is made without critical evaluation. Rather, the "determinations are made using a systematic pre-scripted interrogation of callers . . . including a logical process having a plurality of preprogrammed inquiries and wherein said determinant level is

determined based on responses to the preprogrammed inquiries. . . .” Most importantly, the very essence of the claimed invention is that it “**eliminate[s] variability due to the different skills of the individual dispatchers.**” There is no critical evaluation.

Further, Applicant submits that *Moore*’s teaching of “mak[ing] an informed decision on the degree of medical response required” (*Moore* col. 3 lines 59-66) does not teach or fairly suggest that a pre-established determinant level is invoked. In medical dispatch, uniformity, consistency, and time are critical factors. Having pre-established determinant levels provides uniformity and consistency in medical dispatch. A pre-established determinant level carries significance and definition that are readily conveyed to medical dispatchers to facilitate the process. When a pre-established determinant level is invoked by a dispatcher, a responder understands the urgency without undue explanation. This is not taught in *Moore*. At best, *Moore* teaches communicating “an informed decision on the degree of medical response required . . . to the desired personnel.” Making an informed decision on the degree of medical response required and communicating that decision is not assigning a pre-established determinant level.

Brown also does not teach, or fairly suggest use of pre-established determinant levels, and cannot thus be combined with *Moore* to establish prima facie obviousness under § 103(a). At best, *Brown* teaches “provid[ing] a service based on the individual’s response to [a stored set of] questions.” *Brown*, col 3, lines 23-24. However, the service contemplated and taught by *Brown* is “communication with a health care professional or service provider.” *Brown*, col 3, lines 24-25. This can

only fairly be understood as collecting data to be stored in a database, *Brown*, col. 5, line 36, to be later communicated to a health care provider, who would then critically evaluate the data to determine the appropriate response. See *Brown*, col. 15, lines 50-52 (discussing "[dispatcher's] effective communication with the patient, because of the ability to view pertinent [stored] information"). *Brown* is merely a system for "remote monitoring of a large number of individuals," *Brown*, col. 12, lines 4-6, in non-emergency situations. *Brown*, col. 15, line 65-68 to col. 16, lines 1-2.

Because *Moore* does not teach pre-established determinant levels, and *Brown* does not teach or fairly suggest pre-established determinant levels, not all the elements of independent claim 1 and dependent claims 2-11 are taught by these references. Thus, these claims are nonobvious with respect to *Moore* in view of *Brown*, and Applicant respectfully requests that the rejection under 35 U.S.C. § 103 be withdrawn.

Moore and Brown Do Not Teach Post Dispatch Instructions To A Caller

While the aforementioned distinction in and of itself negates finding the present invention obvious with respect to *Moore*, in view of *Brown*, *Moore* also does not teach providing post dispatch instructions to a caller. Further, *Brown* also does not teach, or fairly suggest, this element of independent claim 1.

As raised in a previous response, *Moore* does not teach providing instructions to a caller prior to arrival of medical responders. Rather, *Moore* teaches that the medical responders, after arriving, can further communicate, and perhaps receive instruction, from the health care coordinator (i.e., dispatcher). The Examiner in the

Office Action cites as teaching the element of providing post dispatch instructions, column 10, lines 6-17 of *Moore*, which teaches that a medical staff member can "effect further communication with the health care coordinator through the telephone handset 19 or the intercom 23 in the patient's room." This passage of *Moore* teaches medical staff communication with the health care coordinator after the medical staff has arrived. Post dispatch communication between medical staff and the health care coordinator does not satisfy the claimed limitation.

Claim 1 recites "providing post dispatch instructions to a caller, prior to the arrival of the responders to prepare the patient for the responders and to expedite the field responders' work, based on said determinant level." Rather than providing instructions to medical personnel, claim 1 recites that post dispatch instructions are provided to the caller prior to the arrival of the medical responders. Implicitly, the instructions are intended for callers who are not necessarily trained medical personnel. A dispatcher, regardless of skill or experience, communicating effective instructions to a caller with no medical training is a limitation that is not taught by *Moore*. A medical emergency occurring outside a medical facility may require several minutes, and perhaps even longer, before responder's arrive. In such a situation where the patient is outside of a health care facility without any medical personnel available, post dispatch instructions are quite valuable.

Brown also does not teach providing post dispatch instructions to a caller, the instructions being based on a pre-established determinant level. *Brown* teaches "connect[ing the patient] to an emergency health care worker," *Brown*, col. 16, lines 17-18, or other "live person that is designated for non-emergency patient interaction."

Brown, col 16, lines 28-29. "The person receiving the call provides effective communication with the patient, because of the ability to view pertinent information."

Brown, col. 15, lines 50-52. Any instruction given is necessarily based upon the skill and ability of the person giving the instructions.

In direct contrast, claim 1 of the present invention, as amended, claims "[a] method for managing the exit process of an emergency medical dispatch system" that comprises "providing post dispatch instructions . . . based on said determinant level, thereby eliminating variability due to the different skills of the individual dispatchers."

Because *Moore* does not teach providing post dispatch instructions based on determinant levels so as to eliminate variability due to varying skill levels of dispatcher, and *Brown* also does not teach or fairly suggest this limitation, not all the elements of independent claim 1 and dependent claims 2-11 are taught by these references. Thus, these claims are nonobvious with respect to *Moore* in view of *Brown*. As such, Applicant respectfully requests that the rejection under 35 U.S.C. § 103 be withdrawn.

Moore and Brown Do Not Teach a Systematic Pre-scripted Interrogation Including a Medium Readable By a Dispatcher

While the aforementioned distinctions in and of themselves negate finding the present invention obvious with respect to *Moore*, in view of *Brown*, these references also do not teach a medium readable by a dispatcher that is included within the pre-scripted interrogation. There is no teaching or suggestion of a health care

coordinator in *Moore* or *Brown* reading a script from flip cards, notes, a computer screen or other medium. In *Moore*, and *Brown*, the health care coordinator is provided with means to display the patient's profile. *Moore* and *Brown* do not disclose a medium that displays a pre-scripted interrogation to a health care coordinator (or dispatcher). Thus, independent claim 1 and dependent claims 2-11 are nonobvious with respect to *Moore* in view of *Brown*. As such, Applicant respectfully requests that the rejection under 35 U.S.C. § 103 be withdrawn.


In summary, "[t]o establish a prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." MPEP § 2143.03. As *Moore* does not teach or suggest assigning pre-established determinant levels, "providing post dispatch instructions to a caller, prior to the arrival of the responders to prepare the patient for the responders and to expedite the field responders' work," or a pre-scripted interrogation including a readable medium, the Applicant respectfully submits that claim 1 is patentably distinct over *Moore*.

Claims 2-11 are patentably distinct by virtue of their depending from claim 1. Furthermore, claim 9 recites that the medium includes a flip card apparatus which is not taught in *Moore* or *Brown*. Claim 11 recites that each determinant level includes a sublevel, which is not taught by *Moore*.

In view of the foregoing, claims 1-11 represent patentable subject matter. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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